



Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510-4904

Dear Senator Feinstein:

This is in response to your letter on behalf of your constituent, Joan P. Ireland, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

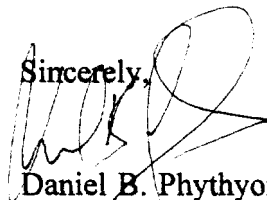
The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in black ink, appearing to read "D. B. Phythyon", written over the word "Sincerely,".

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

DIANNE FEINSTEIN
CALIFORNIA

COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATION

United States Senate
WASHINGTON, DC 20510-0504

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July 30, 1998

Ms. Lou Sizemore
Congressional Liason Specialist
Federal Communications Commission
1919 M St N.W.
Washington, D.C., 20554

Dear Ms. Sizemore:

INQUIRY FROM: Joan P. Ireland (Reference #: mmp-64279)

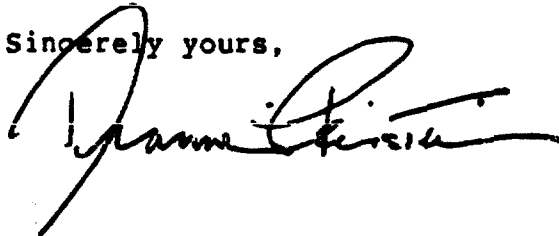
Remark
RE: FCC NPRM Sec. 255

I am forwarding the attached constituent inquiry for your review and consideration. I believe that my constituent would benefit from your response to the specific issues raised in the enclosed letter.

I would appreciate it if you would return your response, in duplicate, to my Washington, DC office as quickly as possible so that I can share the information with my constituent.

With warmest personal regards.

Sincerely yours,



1476728

12276 Casero Court
San Diego, CA 92128-2723
June 27, 1998

The Honorable Dianne Feinstein
U. S. Senate
Washington, DC 20510

Re: FCC NPRM, Section 255 of the Telecommunications Act of 1996

Dear Senator Feinstein:

Please contact the Chairman of the FCC, William E. Kennard, about the following concerns of your hard of hearing constituents. Telecommunications services are vital to all Americans no matter what their status in life. Those of us with a disability such as hearing loss must rely on special forms of those services as well as technical accommodations in the equipment we use to communicate with others on a day-to-day basis.

I fear the FCC proposal is at variance with Congressional intent of ensuring telecommunications access for the disabled population and, if some of its provisions are enforced, will eliminate many of the accommodations we need and have come to depend upon. The FCC proposal should be consistent with the guidelines developed by the Access Board.

1. The Access Board guidelines must be adopted for both manufacturers and service providers with specific language incorporated so that they will fully understand their access responsibilities and obligations in their design of new equipment.
 - Time and again I have asked for assistive listening systems in theaters and public facilities only to be handed a device which cannot be used with my telecoils and neckloop or my boot cord. Both of these allow me to continue wearing my hearing aids (which have been specifically designed for my individual hearing loss) while using an assistive device. Having to rely on the device provided (an earphone-type), I no longer have the features my own aids provide for clarity; moreover, the device's across-the-board volume increase makes some frequencies painfully loud while failing to amplify others sufficiently for me to understand the dialogue. Manufacturers and theater owners must understand that with such an inadequate device they are not providing access for all people with severe hearing loss or cochlear implants.
 - Frequently I encounter telephone booths equipped with fluorescent lighting which is notorious for creating a loud hum in one's telecoils (needed to hear over a phone). What possible good can the bright lighting be when any conversation over the line is overpowered by the noise?
 - Public phones in busy places such as shopping malls, airports, hotel lobbies, etc. more often than not do not have any volume enhancement capability, and many that are so equipped do not boost the volume sufficiently for some of us. The manufacturers must understand that accessibility is required by law and enforced by the FCC.
 - Just yesterday I was considering buying a TV and was chagrined to discover in one model that the closed captioning was only available when the TV was in "mute" mode. What about the other members of my family who are not hard of hearing? Or did the manufacturer assume that only a hard of hearing person would be using the TV?
2. The term "cost recovery" and its concept is unconscionable. The reason we now have the ADA and other accessibility laws is because a stimulus had to be given to bring about accessibility for disabled people. If left to itself, the business world would not have made

the changes necessary, because those accommodations do cost money, money that often is not completely recovered. The ultimate benefits, however, far outweigh the initial cost.

Americans basically believe in looking out for our fellow man and providing equal access.

- Most hard of hearing people cannot currently use analog cellular phones because they are not telecoil compatible; that requirement was not written into law, so manufacturers have not jumped to provide that feature. Yes, its cost might not be recoverable, but countless hard of hearing people would feel safer if they had a usable cellular phone in their pocket, purse or car for emergencies!
- What a blessing it is for us to find text message boards in airports and text boarding information at the gate. Those airlines providing this service have our gratitude and loyalty; those who do not provide these accommodations probably have not done so because of the cost feature and because the law does not insist they comply.

3. Regarding the complaint process:

- Specifying that a consumer's complaint must be resolved within five days assumes that all complaints are simple ones. Such is not the case, and by limiting the resolution process to five days no consideration is given to a company's need to gather information not only on the complaint itself but also on the possible means available to resolve that complaint. Ten days seems like a more realistic time frame with the added possibility of extension to 30 days for those who indicate a reasonable need.
- I heartily approve your proposal to allow an individual to file without fee a complaint against manufacturers or service. Please include also complaints against common carriers. The public interest is best served when individuals can easily lodge complaints.
- With the same thought in mind, preventing someone from lodging a complaint merely because the FCC chooses to do so denies us all the right to be heard fairly. Please reconsider this particular aspect of your proposal.

4. "Enhanced services" must be included under Section 255! Voice mail and automated voice response systems, so common today, are impossible for many hard of hearing people to understand. Ears affected by hearing loss, even when properly fitted with hearing aids, cannot process sound as quickly as normal ears; by the time the first word or two are deciphered, the speaker is already on to the next sentence. In many cases a hard of hearing person just plain cannot hear the sound of the instructions over the phone because more volume is required. TTY relay services are of no assistance in this situation due to the lengthy time required for the relay operator to type out the instructions.

I do not believe Congress intended for hard of hearing people to be denied this coverage. *We need access just as much as people with normal hearing!* Too great a part of telecommunications today stems from these enhanced services whether it be for business calls, medical assistance, employment, educational purposes or service agencies.

We need an "automatic out" whereby the caller could be connected to a live person.

- How helpful an automatic out would have been when I was trying to find out the arrival time of my husband's flight last week. The automated flight information service was one question after another, one number to push after another, an impossible series of sounds for my ears to fathom. I finally took my chances and headed for the airport far too early just in case he should come in ahead of time.
- The same situation arose recently when I tried to find out what time "Titanic" would be shown with captioning at a theater in Ontario. Advanced publicity said one performance would be captioned and to call for details. I called, and what did I get? A recording which was completely unintelligible to me. Common sense would indicate

that someone needing captioning would not be able to understand a recording! Yet even when I asked my husband to listen to the recording, no mention was made of a captioned performance. It took several other calls through Directory Assistance to finally reach a live person who could provide the needed information.

This is not "access" as intended by Section 255 of the Telecommunications Act!

Despite the aforementioned difficulties, as a hard of hearing person I do feel fortunate to be living in these times when I can participate in society and communicate fairly freely in most situations. For this I credit the ADA and other accessibility laws enacted by wise, fair and caring legislators.

Please help convince the FCC how desperately concerned we are. They must not allow accessibility for hard of hearing people to regress to the heartless conditions and stigma under which my mother and her father struggled to maintain dignity while advancing years gradually destroyed their hearing and their ability to communicate.

Thank you.

Sincerely,



Joan P. Ireland